

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

ORDER GRANTING WYETH'S
MOTION FOR SUMMARY JUDGMENT

This document relates to:

Lydia Dyson v. American Home
Products Corp., et al., 2-cv-
893.

Wyeth f/k/a American Home Products Corporation ("Wyeth") moves this court for summary judgment pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, on the grounds that the evidence in this case demonstrates that plaintiff did not ingest a PPA-containing product manufactured by Wyeth within the seventy-two hours prior to her alleged stroke as required by the Court's June 18, 2003 Daubert Order. Plaintiff did not file an

ORDER

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1 opposition to the motion.¹ Having reviewed the motion, the court
2 hereby finds and rules as follows:

3 On July 8, 2003, plaintiff was deposed. During her
4 deposition, plaintiff unequivocally testified that she did not
5 ingest a PPA-containing product manufactured by Wyeth within
6 seventy-two hours of her alleged stroke. Given the court's June
7 18, 2003 Daubert Order excluding evidence of product usage
8 outside of the seventy-two hour window, plaintiff cannot make a
9 sufficient showing as to an essential element of her case. Based
10 on her own sworn testimony, plaintiff cannot meet the burden of
11 proof with respect to her claims against Wyeth. Indeed,
12 plaintiff's deposition testimony clearly demonstrates that she
13 did not ingest any Wyeth product within the seventy-two hours
14 preceding her alleged stroke. There exists no genuine issue of
15 material fact in dispute. Accordingly, Wyeth is entitled to
16 summary judgment as a matter of law.

17 Based on the foregoing, the court hereby GRANTS Wyeth's
18 motion for summary judgment as a matter of law and plaintiff's
19 claims against it are DISMISSED with prejudice.

20 DATED at Seattle, Washington, this 7th day of December
21 2005.

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23 _____

24 ¹The summary judgment motion was filed on August 9, 2005.
25 Thereafter, on August 29, 2005, the court stayed the case through
26 November 20, 2005. As such, plaintiff's opposition was due on
December 2, 2005.

BARBARA JACOBS ROTHSTEIN
UNITED STATES DISTRICT COURT JUDGE

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